

Michael S. McIntosh

Office Managing Shareholder

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Focus Areas

Wage and Hour
Class Action
Litigation and Trials
Appellate
Healthcare
Home Health and Home Care
Littler Pay Equity Assessment

Overview

Michael S. McIntosh has represented clients in connection with a wide variety of labor and employment issues – from Railway Labor Act litigation, to employee handbook and policy preparation, to general employment counseling. However, his practice primarily focuses on complex wage and hour litigation in federal and state courts. He regularly represents clients in collective, class, and hybrid actions under the Fair Labor Standards Act and state wage and hour laws, as well as representative actions brought by the U. S. Department of Labor. These include actions involving allegations of off-the-clock work, compensable preliminary and postliminary activities, and employee misclassification.

As part of his complex wage and hour litigation practice, Michael has helped secure Multi-District Litigation (MDL) treatment of related actions filed in multiple federal jurisdictions to ensure a coordinated or consolidated handling of those matters. He has also participated in numerous jury trials in federal courts across the country, including single-plaintiff, collective action, and DOL representative action trials.

In conjunction with his wage and hour litigation practice, Michael helps employers audit their wage and hour practices. This can include everything from reviewing employers' formal policies and practices to ensure compliance with the

applicable legal standards to conducting large-scale surveys of client's in-field personnel to audit the exempt status of certain categories of employees.

He also has extensive experience litigating matters before federal and state courts of appeal, including before the U.S. Courts of Appeals for Second, Third, Ninth and Eleventh Judicial Circuits, as well as the California Courts of Appeal and California Supreme Court. He has helped handle dozens of appeals and writ petitions on behalf of clients in a variety of subject matters, including wage and hour actions and contractual disputes.

Professional and Community Affiliations

- Member, Labor and Employment Section, District of Columbia Bar
- Member, State Bar of California

Recognition

- Ranked, Labor & Employment, *Chambers USA*, 2023-2024
- Named, Rising Star, Virginia and West Virginia, *Super Lawyers*, 2014 - 2017
- Named, Rising Star, Washington, DC, *Super Lawyers*, 2015 - 2017

Education

J.D., University of Virginia School of Law, 2003
B.A., Georgetown University, 2000, *cum laude*

Bar Admissions

Virginia
California
District of Columbia

Courts

U.S. Court of Appeals, 2nd Circuit
U.S. Court of Appeals, 9th Circuit
U.S. District Court, Eastern District of Virginia
U.S. District Court, Central District of California

Publications & Press

Virginia's 2024 Legislative Session Sees Few Employment Bills Passed and Record Vetoes

Littler Insight
June 7, 2024

Littler Ranked in 2024 Chambers USA Guide

Littler Press Release

June 6, 2024

Littler Recognized in 2023 Chambers USA Guide

Littler Press Release

June 6, 2023

Virginia Realigns Overtime Requirement with Federal FLSA

Littler ASAP

April 14, 2022

Littler Elects Four New Members to 2022 Board of Directors

Littler Press Release

January 31, 2022

Virginia's Red Wave Bolsters 'Right To Work,' For Now

Law360 Employment Authority

November 5, 2021

Virginia Overtime Wage Act Creates New Liabilities for Employers in the Commonwealth

Virginia Lawyer

August 2, 2021

Virginia Continues Pro-Employee Push with New Overtime Wage Act

Littler Insight

April 2, 2021

Virginia Imposes New COVID-Related Restrictions

SHRM Online

December 14, 2020

Virginia Imposes New COVID-Related Restrictions on Individuals and Businesses

Littler ASAP

December 10, 2020

Maryland Enters Stage Three of the "Maryland Strong: Road to Recovery" Plan

Littler ASAP

September 9, 2020

New Virginia Wage and Hour and Pregnancy Discrimination/Accommodation Laws Effective July 1, 2020 Significantly Expand Employees' Rights

Littler Insight

July 6, 2020

Washington, D.C. and Maryland Expand Their Reopening Efforts

Littler ASAP

June 30, 2020

Virginia Prepares to Enter "Phase Two" of its Reopening Plan

Littler Insight

June 4, 2020

Washington, D.C. Activates its Reopening Plan, While Maryland Permits Additional Activities Under its Roadmap to Recovery

Littler Insight

June 3, 2020

Two Steps Forward, One Step Back: Virginia Prepares for Statewide Entry Into "Phase One" of Reopening, While Issuing New Face Covering Mandate

Littler ASAP

May 27, 2020

Maryland Initiates its Reopening Plan While Washington, D.C. Extends its Stay-at-Home Order and Implements Face Covering Requirement

Littler Insight

May 19, 2020

Virginia Delays Phase One of its Business Reopening Plan in Northern Virginia Region, Richmond, and Accomack County

Littler ASAP

May 12, 2020

Virginia Plans Gradual Three-Phase Lifting of Restrictions on Nonessential Businesses

Littler ASAP

May 6, 2020

Virginia Enacts Work-Sharing Program

Littler ASAP

April 30, 2020

Virginia Increases its Minimum Wage to \$12.00 per Hour by 2023

Littler ASAP

April 23, 2020

Virginia Extends Restrictions on Nonessential Businesses

Littler ASAP

April 16, 2020

Virginia Issues “Stay at Home” Executive Order

Littler ASAP

March 30, 2020

A COVID-19 Guide for Employers in the DMV (DC, Maryland, Virginia)

Littler Insight

March 26, 2020

Virginia Places Temporary Restrictions on Businesses within the Commonwealth and Closes K-12 Schools for the Remainder of the School Year

Littler ASAP

March 24, 2020

How Might Virginia’s New Legislative Trifecta Affect Employers in the Commonwealth in 2020?

Littler Insight

January 6, 2020

Litigation Armoring: Building the Record Your Organization Needs to Fend Off Misclassification Claims In Section: Feature

VSHRM Online

August 29, 2018

Michael McIntosh to Head Littler's Tysons Corner Office

Littler Press Release

September 22, 2015

D.C. Circuit Leaves Federal Motor Carrier Safety Administration's Hours of Service Rule Mostly Unchanged

Littler ASAP

August 8, 2013

Littler’s Washington, D.C. and Tysons Corner Offices Land Two New Shareholders Strengthening Firm’s National Class Action Practice

Littler Press Release

December 19, 2011

Preserving the Record for Appeal: A Checklist for Trial Lawyers

VII No. 4 ABTL Report (Orange County) 1

Winter 2005/2006

Trial of an FLSA “Donning and Doffing” Class Action After IBP v. Alvarez

21 No. 3 ANEMPLR 11

2006

Speaking Engagements

2024 Mid-Atlantic Regional Employer Conference

Washington, DC

June 21, 2024

2023 Mid-Atlantic Regional Employer Conference

Washington, DC

June 16, 2023

2022 Employment Law Update

The Mid-Atlantic Regional Employer Conference

June 8, 2022

Managing the Legal Implications of Wandering Workers

ACC National Capital Region

April 28, 2022

The Commonwealth’s Wage & Hour Law Transformation

HR Virginia 2022 Annual Conference

April 25, 2022

The Never-Ending Crisis: The Latest Workplace Legal Issues Related to the COVID-19 Pandemic

HR Virginia 2022 Annual Conference

April 25, 2022

The Pandemic 2 Years Later – How COVID-19 Has Changed Nothing, But Everything

2022 Richmond SHRM Legal Update

March 17, 2022

The Revolution Continues! The Virginia Overtime Wage Act and the Commonwealth’s Wage & Hour Transformation

Tysons Corner, VA

October 27, 2021

2021 Mid-Atlantic Virtual Employer Conference

September 9, 2021

Virginia Overtime Wage Act: The Next Step in the Commonwealth's Pro-Employee Push

June 24, 2021

Tysons Corner Fall Mini-Series: A Whole New Ballgame in the Commonwealth: The Wide-ranging Repercussions of Virginia's Recently Enacted Wage and Hour Laws

Tysons Corner, VA

November 11, 2020

Employment Law Update: 2020 Employment Law Changes You Need to Plan For

Richmond SHRM

February 20, 2020

Employment Law Update: 2020 Employment Law Changes You Need to Plan for and Other Hot Button Topics

Tysons Corner, VA

December 11, 2019

How to Self-Audit Your Organization's Wage and Hour Practices

Law.com webinar

October 10, 2019

The Wage and Hour Update: Federal Deregulation Efforts Contrast With State, Local, and Private Enforcement Expansion

2019 Mid-Atlantic Employer Conference, Bethesda, MD

June 7, 2019

Timely Talk About Wage and Hour Law | Auditing Your Organization's Wage and Hour Practices

February 6, 2019

Auditing Your Organization's Wage and Hour Practices

Tysons Corner, VA

November 15, 2018

Top Wage & Hour Mistakes and What to Do About Them

Virginia SHRM State Conference

April 24, 2018

Federal Developments During the First Year of the Trump Administration and Predictions for 2018

Tysons Corner, VA

December 12, 2017

Pay Equity: Planning for Change

2017 Mid-Atlantic Employer

June 6, 2017

Top 10 Human Resources Issues Affecting Your Business

Virginia Society of CPAs, Business & Industry Conference, Williamsburg, VA

May 2017

The 2016 Election: What Does a Trump Victory Mean for Employers?

Tysons Corner, VA

December 13, 2016

Working on Overtime: Preparing for DOL's Changes to the FLSA Overtime Regulations

Accounting Principals

July 28, 2016

2016 Mid-Atlantic Employer Conference

Washington, DC

June 7, 2016

DOL's Proposed Changes to the White Collar Regulations: What Should Employers Do Now?

Tysons Corner, VA

September 23, 2015

Overview of Federal Labor Laws for Government Contractors (SCA, DBA, FLSA, OFCCP and related Executive Orders)

Public Contracting Institute: HR and Labor Compliance for Federal Contractors

September 15, 2015

Arbitration Programs with Class Waivers – Protection from Wage and Hour Class/Collective-Action Liability

Tysons Corner, VA

October 21, 2014

Wage & Hour Law: Collective Actions Under FLSA

44th Annual Conference on Labor Relations and Employment Law - The Virginia Bar Association, National Harbor, MD

September 12, 2014

Beyond the Companionship Exemption: How to Reclassify Employees

DecisionHealth Webinar

March 20, 2014

Litigation Armoring — Building Advance Defenses to Common Wage and Hour Class and Individual Claims

Tysons Corner, VA

January 23, 2014

Litigation Armoring – Building Advance Defenses to Common Wage and Hour Class and Individual Claims

Washington, DC

October 16, 2013

Compensable Work Time and Calculating Overtime

Teleconference, Section of Labor and Employment Law - American Bar Association Center for Continuing Legal Education

September 22, 2010

Books & Book Chapters

- The Mid-Atlantic Employer, *LexisNexis*, Virginia, 2013
- Littler Mendelson on Employment Law Class Actions, *LexisNexis*, Class Certification Under Rule 23, Chapter 9, 2nd Ed., Chapter Co-Editor, 2012
- Fair Labor Standards Act, *Section of Labor and Employment Law - American Bar Association and Bloomberg BNA*, Collective Actions, Chapter 19, 2nd Ed., Chapter Contributor, 2010